

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America

v.

Bernard Clark McMILLON

Case No. 2:23-mj-34

*Defendant(s)*

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 1, 2022 in the county of Franklin in the  
Southern District of Ohio, the defendant(s) violated:

*Code Section*

*Offense Description*

18 U.S.C. Section 922(g)(1)

Felon in Possession of a Firearm

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

*Janna Penfield*

*Complainant's signature*

Janna Penfield, ATF Special Agent

*Printed name and title*

Sworn to before me and signed in my presence.

Date: January 20, 2023

City and state: Columbus, Ohio

*Kimberly A. Johnson*  
Kimberly A. Johnson  
United States Magistrate Judge



**AUSA Kelley**

**AFFIDAVIT**

Your Affiant, Janna Penfield, deposes and states:

1. Your Affiant is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), United States Department of Justice, and has been so employed since August 2018. Prior to becoming a Special Agent with ATF, I was a United States Probation Officer with the United States Probation Department through the Southern District of Ohio from October 2014 through January 2018. Additionally, from August 2007 through October 2014, I was a Parole Officer through the State of Ohio, which included a special assignment position with the United States Marshal Service as a Task Force Officer on the Southern Ohio Fugitive Apprehension Strike Team. I have completed the Federal Criminal Investigator Training Program and the ATF Special Agent Basic Training at the Federal Law Enforcement Training Center in Glynco, Georgia. I have also completed the Initial Pretrial and Probation Training Program at the Federal Law Enforcement Training Center in Charleston, South Carolina, and the State of Ohio Parole Academy in Columbus, Ohio. In addition to the firearms, arson, and explosives related training received in these courses, your Affiant has also conducted and participated in numerous investigations involving firearms, firearms trafficking, and narcotics.

2. This affidavit is being submitted for the limited purpose of establishing probable cause that Bernard Clark McMILLON has violated Title 18 United States Code Section 922(g)(1), Felon in Possession of a Firearm. The statements contained in this Affidavit are derived from information provided to me by members of the Columbus Police Department

(CPD) as well as my own investigation of this matter. This affidavit does not include every fact known to me regarding this investigation but seeks to summarize relevant information.

### **PROBABLE CAUSE**

#### **A. December 1, 2022 – West Broad Street and Interstate 70, Columbus, Ohio 43222**

3. On December 1, 2022, Officers with CPD were dispatched to 2015 Fairmont Avenue, Columbus, Ohio on the report of a dispute. Upon arrival, Officers noticed a vehicle, later determined to be a silver Lexus Sports Utility Vehicle (SUV), bearing Ohio license plate JVK2355 parked behind 2008 Floral Avenue, Columbus, Ohio leave the area at a high rate of speed traveling Northbound. After CPD Officers observed the driver of the vehicle commit traffic violations, a traffic stop was initiated at West Broad Street and Interstate 70.

4. CPD approached the vehicle, informed the driver the reason for the traffic stop, and asked for their driver's license. The driver, identified as Gwendolyn Magbie and the registered owner of the vehicle, stated she had driving privileges. However, CPD determined Magbie has never obtained a driver's license and no privileges were listed. Therefore, Magbie was arrested for operating a motor vehicle without a valid license. At that time, Magbie informed CPD she had a firearm in her purse, later determined to be a Taurus, model G2C, 9mm pistol bearing serial number ADA883517.

5. The front passenger, identified as Bernard McMILLON, was removed from the vehicle. CPD Officers conducted an inventory of the vehicle prior to impounding the vehicle for the no operator's violation. During the inventory, CPD observed a firearm under the front passenger seat where McMILLON was sitting. The firearm appeared to be placed in a manner consistent with the front passenger shoving the firearm underneath the seat. The firearm was determined to be a Glock, model 29, 10mm pistol bearing serial number DZS933, loaded with

12 rounds of ammunition. Based upon CPD Officers being aware McMILLON has previous felony convictions for a violation of Ohio Revised Code Section 2923.13, Having Weapons While Under Disability, McMILLON was transported to CPD Headquarters.

6. Additionally, it should be noted on or about October 21, 2022, S/A Jason Burns met with a confidential informant (CI) regarding the purchase of narcotics from an individual in Columbus, Ohio. The CI advised that this individual was trafficking narcotics from a new location, a previous known narcotics trafficking location in Columbus, Ohio. On this same date, ATF Surveillance units proceeded to this location to conduct surveillance prior to the purchase of narcotics at this location by the CI. At approximately 1:46 PM, ATF Task Force Officers (TFO's) J. Wright and J. Kasza observed MCMILLON exit the front door of the building, along with an unknown black female with long braids. MCMILLON was holding a handgun with an extended magazine in his right hand and placed the firearm into his front pocket while standing on the sidewalk. MCMILLON stood on the sidewalk looking around while waiting on the unknown female to leave. TFO Kasza was able to capture a photograph of MCMILLON (see attached).



7. McMILLON has prior convictions in Franklin County Court of Common Pleas on July 10, 2012, for Having Weapons While Under Disability (F3), Case Number 12CR-05-2458; and on February 6, 2020, for two counts of Having Weapons While Under Disability (F3), Case Numbers 19CR1082 and 19CR5558.

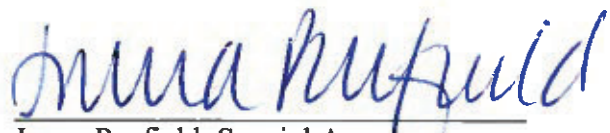
**B. January 12, 2023 - Interstate Nexus Determination**

1. On January 12, 2023, Special Agent Janna Penfield spoke with ATF Interstate Nexus Expert Special Agent Jason Burns who was informed about the aforementioned firearm and he provided a verbal determination that Glock firearms are not manufactured in the State of Ohio. Thus, the Glock, model 29, 10mm pistol bearing serial number DZS933, must have traveled in interstate commerce to be found in the State of Ohio.

**C. CONCLUSION**

2. Based upon the above listed facts and circumstances, Your Affiant believes and asserts that there is probable cause to believe that on December 1, 2022, McMILLON did unlawfully, knowingly, possess firearms in and affecting interstate commerce after having been convicted of a crime punishable by imprisonment for a term exceeding one year as well as a Federal Felony conviction, in violation of Title 18, United States Code, Section 922(g)(1).

3. The above violation was committed in the Southern District of Ohio, Eastern Division. Your Affiant requests that an arrest warrant be issued for Bernard Clark McMILLON.

  
Janna Penfield, Special Agent  
Bureau of Alcohol, Tobacco, Firearms and  
Explosives

This affidavit was sworn to by the Affiant by telephone after a PDF was transmitted by email, per Crim R. 3, 4(d), and 4.1 on this \_\_\_\_ day of January 2023.

  
\_\_\_\_\_  
Kimberly A. Johnson  
United States Magistrate Judge

